

रजिस्टर्ड नं० पी०/एस०एम० 14.



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, बृहस्पतिवार, 2 अप्रैल, 1981/12 चैत्र, 1903

हिमाचल प्रदेश सरकार

हिमाचल प्रदेश विधान सभा सचिवालय

अधिसूचनाएं

शिमला-171004, 1 अप्रैल, 1981

संख्या 1-19/81-वि० स०:—हिमाचल प्रदेश विधान सभा प्राक्रिया एवं कार्य संचालन नियमावली, 1973 के नियम 135 के अन्तर्गत, दि हिमाचल प्रदेश राजभाषा (अनुपूरक उपबन्ध) विधेयक, 1981 (1981 का विधेयक

संख्यांक 5) जो हिमाचल प्रदेश विधान सभा में 1 अप्रैल, 1981 को पुरःस्थापित किया गया है, सर्वसाधारण की सूचनार्थ राजपत्र में मुद्रित करने के लिए प्रेषित किया जाता है।

राज कुमार महाजन,
सचिव ।

विधेयक संख्यांक 1981 का 5

हिमाचल प्रदेश राजभाषा (अनुपूरक उपबन्ध) विधेयक, 1981

(जैसा कि विधान सभा में पुरःस्थापित किया गया)

राज्य विधान सभा द्वारा मूलतः अंग्रेजी में पारित की गई विधियों के प्राधिकृत हिन्दी पाठों के प्रकाशन के लिए तथा उससे सम्बन्धित विषयों के लिए उपबन्ध करने हेतु

विधेयक

भारत गणराज्य के बत्तीसवें वर्ष में हिमाचल प्रदेश विधान सभा द्वारा निम्नलिखित रूप में अधिनियमित हो :—

1. यह अधिनियम हिमाचल प्रदेश राजभाषा (अनुपूरक उपबन्ध) अधिनियम, 1981 संक्षिप्त नाम।
कहा जा सकेगा।

2. इस अधिनियम में, जब तक कि संदर्भ में अन्यथा अपेक्षित न हो,—

परिभाषाएं।

(क) (1) कोई अधिनियमिति जो राज्य विधान सभा द्वारा मूलतः अंग्रेजी में पारित की गई हो, या

(2) कोई विनियम जो भारत के संविधान की पंचम अनुसूची के अधीन हिमाचल प्रदेश के राज्यपाल द्वारा मूलतः अंग्रेजी में बनाया गया हो,

और उसके अन्तर्गत कोई ऐसी अधिसूचना, आदेश, नियम, विनियम या उपविधि आती है जोकि उसके अधीन अंग्रेजी भाषा में जारी की गई हो या बनाई गई हो,

(ख) अभिव्यक्ति "हिन्दी" का वही अर्थ होगा जो कि हिमाचल प्रदेश औफिशियल लैंग्वेज एक्ट, 1975 की धारा 2 के खण्ड (क) में उस अभिव्यक्ति के लिए दिया गया है।

3. किसी हिमाचल प्रदेश विधि का हिमाचल प्रदेश के राज्यपाल के प्राधिकार से तैयार किया गया तथा उनके प्राधिकार के अधीन राजपत्र में प्रकाशित किया गया हिन्दी अनुवाद उसका प्राधिकृत हिन्दी पाठ समझा जायेगा।

हिमाचल प्रदेश विधि के प्राधिकृत हिन्दी पाठ।

उद्देश्य तथा कारणों का विवरण

हिमाचल प्रदेश औफिशियल लैंग्वेज एक्ट, 1975, राज्य सरकार के सभी या किसी शासकीय प्रयोजन के लिये हिन्दी भाषा के अपनाने का प्रावधान करता है। भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के उपबन्धों के अनुसार, यहां किसी राज्य की विधान सभा ने, उस विधान सभा में पुरःस्थापित विधेयकों या उसके द्वारा पारित अधिनियमों में अथवा उस राज्य के राज्यपाल द्वारा प्रख्यापित अध्यादेशों में अथवा किसी आदेश, नियम, विनियम या उपविधि में प्रयोग के लिये अंग्रेजी भाषा से अन्य किसी भाषा के प्रयोग को विहित किया है, वहां उस राज्य के राजपत्र में उस राज्य के राज्यपाल के प्राधिकार से प्रकाशित अंग्रेजी भाषा में उसका अनुवाद, उसका अंग्रेजी भाषा में प्राधिकृत पाठ समझा जायेगा। न तो हिमाचल प्रदेश औफिशियल लैंग्वेज एक्ट, 1975 में और न ही भारत के संविधान में कोई ऐसा प्रावधान है जिसके अनुसरण में मूलतः अंग्रेजी भाषा में बनाई गई हिमाचल प्रदेश विधियों के प्राधिकृत हिन्दी पाठों को बनाया एवं प्रकाशित किया जा सके। हिन्दी भाषा के पूर्णतया प्रयोग को सुनिश्चित करने हेतु आवश्यक है कि मूलतः अंग्रेजी में बनाये गये हिमाचल प्रदेश विधियों के राज्यपाल के प्राधिकार में राजभाषा में प्राधिकृत पाठों को तैयार एवं प्रकाशित किया जाये।

अतः यह विधेयक पूर्वोक्त प्रायोजन हेतु प्रस्तावित है।

शिमला :

दिनांक 1-4-1981.

शिव कुमार,
प्रभारी मन्त्री।

वित्तीय ज्ञापन

सरकार के साधनों को विधेयक के उपबन्धों को कार्यान्वित करने हेतु प्रयुक्त किया जायेगा तथा किसी भी प्रकार का अतिरिक्त व्यय नहीं होगा

प्रत्यायोजित विधान सम्बन्धी ज्ञापन
शून्य

[Authorised English text of the Himachal Pradesh Rajbhasha (Anupurak Upbandh) Vidhiak, 1981, as required under clause (3) of Article 348 of the Constitution of India].

Bill No. 5 of 1981.

**THE HIMACHAL PRADESH OFFICIAL LANGUAGE
(SUPPLEMENTARY PROVISIONS) BILL, 1981**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to provide for the publication of authoritative texts in Hindi of laws passed originally by the State Legislature in English and for matters connected therewith.

BE it enacted by the Himachal Pradesh Legislative Assembly in the Thirty-second Year of the Republic of India as follows:—

1. This Act may be called the Himachal Pradesh Official Language (Supplementary Provisions) Act, 1981. Short title.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “Himachal Pradesh Law” means,—

(i) an enactment passed originally by the State Legislative Assembly; or

(ii) a Regulation made originally by the Governor of Himachal Pradesh under the Fifth Schedule to the Constitution of India;

in English language and includes any notification, order, rule, regulation or bye-law issued or made thereunder in English language;

(b) expression “Hindi” shall have the meaning assigned to that expression in clause (a) of section 2 of the Himachal Pradesh Official Language Act, 1975.

3 A translation in Hindi made by and published under the authority of the Governor of Himachal Pradesh in the Official Gazette of any Himachal Pradesh Law shall be deemed to be the authoritative text thereof in Hindi.

Authorita-
tive texts
in Hindi of
Himachal
Pradesh
Law.

STATEMENT OF OBJECTS AND REASONS

The Himachal Pradesh Official Language Act, 1975 provides for the adoption of Hindi as language to be used for all or any of the official purposes of the State of Himachal Pradesh. By virtue of the provisions contained in clause (3) of Article 348 of the Constitution of India, where the Legislature of a State has prescribed any language other than the English language for use in Bills introduced in, or Acts passed by, the Legislature of the State or in Ordinances promulgated by the Governor of the State or in any order, rule, regulation or bye-law, a translation of the same in English language published under the authority of the Governor of the State in the Official Gazette of that State shall be deemed to be the authoritative text thereof in the English language. Neither in the Himachal Pradesh Official Language Act, 1975 nor in the Constitution of India, there is any provision under which the authoritative texts in Hindi of the Himachal Pradesh law originally made in the English language could be made and published. In order to ensure the complete switch over to Hindi, it is necessary that the Hindi text of the Himachal Pradesh laws made originally in the English Language be prepared and published under the authority of the Governor in the official language.

The Bill seeks to achieve the aforesaid objects.

SIMLA:
The 1st April, 1981.

SHIV KUMAR,
Minister-in-charge.

FINANCIAL MEMORANDUM

The provisions of the Bill are to be implemented through the existing machinery of the State Government, and no extra expenditure is likely to be incurred.

MEMORANDUM REGARDING THE DELEGATED LEGISLATION

Nil

शिमला-171004, 1 अप्रैल, 1981

संख्या 1-20/81-वि० स०:-हिमाचल प्रदेश विधान सभा प्राकृत्या एवं कार्य संचालन नियमावली, 1973 के नियम 135 के अन्तर्गत, दि हिमाचल प्रदेश म्यूनिसिपल (अमैन्डमेंट) बिल, 1981 (बिल नं० 8 आफ 1981) जो हिमाचल प्रदेश विधान सभा में दिनांक 1 अप्रैल, 1981 को पुरः स्थापित किया गया है सर्व साधारण की सूचनार्थ राजपत्र में मुद्रित करने के लिए प्रेषित किया जाता है।

Bill No. 8 of 1981.

**THE HIMACHAL PRADESH MUNICIPAL (AMENDMENT)
BILL, 1981**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

further to amend the Himachal Pradesh Municipal Act, 1968 (Act No. 19 of 1968).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Thirty-second Year of the Republic of India, as follows:—

1. (1) This Act may be called the Himachal Pradesh Municipal (Amendment) Act, 1981.

Short title
and com-
mencement.

(2) It shall come into force at once.

2. For the existing section 252-A of the Himachal Pradesh Municipal Act, 1968 (hereinafter called the principal Act) the following section 252-A shall be substituted, namely:—

Substitution
of section
252-A.

“252-A.—Power of the Government to appoint Administrator of the committee pending its election.—Notwithstanding anything to the contrary contained in the Act, the State Government may, until the Municipal Committee is elected in accordance with the provisions of Chapter III of the Act, appoint any person to act as the Administrator and to discharge all the duties and to exercise all the powers of the Municipal Committee”.

3. In sub-section (1) of section 257 of the principal Act,—

(a) for the existing clause (d), the following clause (d) shall be substituted, namely:—

Amendment
of section
257.

“(d) appoint a committee of one or more persons for the purposes of clauses (b) and (c);” and

(b) after clause (d) so substituted the following clause (e) shall be inserted, namely:—

“(e) appoint a President of such committee, and fix the term of office of member or President of the committee;”

4. The existing section 257-A of the principal Act shall be omitted.

Omission of
section
257-A.

5. For the existing words, figures and letter “committee constituted for such area under sections 257 and 257-A” occurring in section 258 of the principal Act, the words and figures “committee appointed for such area under section 257” shall be substituted.

Amendment
of section
258.

Substitution
of section
260-A.

6. For the existing section 260-A of the principal Act, the following new section, along with its heading, shall be substituted, namely:—

“260-A. *Continuance of certain Notified Area Committees.*—Notwithstanding anything to the contrary contained in the Act, or the rules/bye-laws framed thereunder, the committees functioning in the notified areas on or immediately before the commencement of the Himachal Pradesh Municipal (Amendment) Act, 1981, shall continue to discharge the functions and exercise the powers assigned to or conferred upon the committees or the Presidents thereof under the Act or rules/bye-laws framed thereunder, until the new committees are appointed under clause (d) or as the case may be the new Presidents are appointed under clause (e), of sub-section (1) of section 257 of the Act.”

STATEMENT OF OBJECTS AND REASONS

Prior to the commencement of the Himachal Pradesh Municipal (Amendment) Act, 1978 the Notified Area Committees were constituted by nomination of members and appointment of the Presidents by the Government. In the year 1978, the Act was amended so as to constitute the Notified Area Committees by elected members, but as the elections could not be held, the nominated bodies are still functioning.

2. In view of this, the State Government have decided to revert to the situation which existed prior to the commencement of the Himachal Pradesh Municipal (Amendment) Act, 1978 (Act No. 36 of 1978).

The Bill seeks to achieve the aforesaid objects.

SIMLA :
The 1st April, 1981.

HARDYAL,
Minister-in-charge.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM REGARDING DELEGATED LEGISLATION

Nil

शिमला-171004, 1 अप्रैल, 1981

संख्या 1-22/84 वि० स०.--हिमाचल प्रदेश विधान सभा प्राक्रिया एवं कार्य संचालन नियमावली, 1973 के नियम 135 के अन्तर्गत, दि हिमाचल प्रदेश कृषि विश्वविद्यालय (संशोधन) विधेयक 1981 (1981 का विधेयक संख्या 4) जो हिमाचल देश विधान सभा में 1 अप्रैल, 1981 को पुरः स्थापित किया गया है, सर्व साधारण की सूचनार्थ राजपत्र में मुद्रित करने के लिए प्रेषित किया जाता है।

राज कुमार महाजन,
सचिव।

Bill No. 4 of 1981.

THE HIMACHAL PRADESH KRISHI VISHVA VIDYALAYA (AMENDMENT) BILL, 1981

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to amend the Himachal Pradesh Krishi Vishva Vidyalaya Act, 1978
(Act No. 30 of 1978).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Thirty-second Year of the Republic of India, as follows:—

1. (1) This Act may be called the Himachal Pradesh Krishi Vishva Vidyalaya (Amendment) Act, 1981.

Short title
and comm-
encement.

(2) It shall come into force at once, except sections 12 and 13 which shall and shall always be deemed to have come into force on the 1st day of November, 1978.

2. After the existing clause (q) of section 2 of the Himachal Pradesh Krishi Vishva Vidyalaya Act, 1978 (hereinafter called the principal Act), the following new clause (qq) shall be inserted, namely:—

Ammend-
ment of
section 2.

“(qq) “Pro-Vice-Chancellor” means the Pro-Vice-Chancellor of the University;”.

3. In sub-section (2) of section 3 of the principal Act, after the words and sign “the first Vice-Chancellor,” but before the words “the first members of the Board of Management” the words and sign “the first Pro-Vice-Chancellor,” shall be inserted.

Amendment
of section 3.

4. In section 10 of the principal Act,—

Amendment
of section
10.

(a) after the existing clause (i) of sub-section (2) the following new clause (i-a) shall be inserted, namely:—

“(i-a) the Pro-Vice-Chancellor;”;

(b) after the existing sub-section (8) the following new sub-section (8-a) shall be inserted, namely:—

“(8-a) The Pro-Vice-Chancellor shall be the Vice-Chairman of the Board and in the absence of the Vice-Chancellor shall preside at its meetings.”; and

(c) in the existing proviso to sub-section (9) after the words “the Vice-Chancellor” but before the sign “.” the words “and the Pro-Vice-Chancellor” shall be inserted.

5. After the existing clause (i) of sub-section (2) of section 12 of the principal Act, the following new clause (i-a) shall be inserted, namely:—

Amendment
of section
12.

“(i-a) The Pro-Vice-Chancellor shall be the *ex-officio* Vice-Chairman;”.

Amendment of section 17. 6. After the existing clause (ii) of section 17 of the principal Act, the following new clause (ii-a) shall be inserted, namely:—

“(ii-a) the Pro-Vice-Chancellor;”.

Amendment of section 19. 7. In sub-section (4) of section 19 of the principal Act, for the words “the senior-most from amongst the Deans and Directors” the words “the Pro-Vice-Chancellor” shall be substituted.

Insertion of section 19-A. 8. After the existing section 19 of the principal Act, the following new section 19-A, along with its heading, shall be inserted, namely:—

“19-A. The Pro-Vice-Chancellor.—

- (1) The Pro-Vice-Chancellor shall be a whole time officer of the University. The first Pro-Vice-Chancellor after the commencement of the Himachal Pradesh Krishi Vishva Vidyalaya (Amendment) Act, 1981, shall be appointed by the Chancellor, in consultation with the State Government, on such terms and conditions as the State Government may determine. Subsequent Pro-Vice-Chancellor shall be appointed by the Chancellor in consultation with the Vice-Chancellor.
- (2) The term of office of the Pro-Vice-Chancellor shall ordinarily be co-terminus with the office of the Vice-Chancellor:

Provided that notwithstanding the expiry of the term of his office, the Pro-Vice-Chancellor shall continue in office until his successor is appointed and enters upon his office.

- (3) The emoluments and other conditions of service of the Pro-Vice-Chancellor shall be such as may be prescribed and shall not vary to his disadvantage after his appointment.
- (4) On the expiry of the term of his office, the Pro-Vice-Chancellor shall be eligible for re-appointment.
- (5) A person appointed as Pro-Vice-Chancellor shall retire from office if during the term of his office or any extension thereof, he completes the age of 65 years.
- (6) If, in the opinion of the Chancellor, the Pro-Vice-Chancellor wilfully omits or refuses to carry out the provisions of this Act, or abuses the power vested in him and if it appears to the Chancellor that the continuance of the Pro-Vice-Chancellor in office is detrimental to the interest of the University, the Chancellor may, after consultation with the Board and the Government, by order remove the Pro-Vice-Chancellor after giving him an opportunity of showing cause against the action proposed to be taken in regard to him.
- (7) The Pro-Vice-Chancellor may, by writing under his hand addressed to the Chancellor, resign his office. The resignation shall be delivered to the Chancellor ordinarily at least 60 days prior to the date on which the Pro-Vice-Chancellor wishes to be relieved from his office, but the Chancellor may relieve him earlier. The resignation shall take effect from the date of relief.”

Insertion of section 21-A. 9. After the existing section 21 of the principal Act, the following new section 21-A, along with its heading, shall be inserted, namely:—

“21-A. Powers and duties of the Pro-Vice-Chancellor.—

- (1) Subject to the control and supervision of the Vice-Chancellor, the Pro-Vice-Chancellor shall perform such duties and exercise

such powers as may be conferred upon him under the Act or the Statutes or are delegated to him by the Vice-Chancellor or the Board.

- (2) The Board shall delegate to the Pro-Vice-Chancellor such powers as are necessary for the proper and efficient functioning of the Solan Agricultural Complex.

Explanation.—For the purposes of this section, “the Solan Agricultural Complex” shall mean the Agriculture College, Solan and shall include all other agricultural institutions and activities located at Solan and at such other places as may be specified by the Government from time to time.”

10. For the sign “.” occurring at the end of sub-section (1) of section 24 of the principal Act, the sign “:” shall be substituted and thereafter, following proviso shall be added, namely:— Amendment of section 24.

“Provided that in case of College of Agriculture at Solan, the Dean shall be responsible to the Vice-Chancellor through the Pro-Vice-Chancellor.”

11. In sub-section (1) of section 25 of the principal Act, after the words “the Vice-Chancellor” but before the sign “.” the words “but in relation to the Agriculture College, Solan, the Director of Research shall be responsible to the Vice-Chancellor through the Pro-Vice-Chancellor” shall be inserted. Amendment of section 25.

12. For the existing sub-section (2) of section 39 of the principal Act, the following sub-section (2) shall be substituted, namely:— Amendment of section 39.

“(2) Every teacher, officer and other employee inherited from the Himachal Pradesh University under sub-section (1) shall hold and continue to hold his office or service in the University on the same terms and conditions and with the same rights to pension, provident fund, gratuity and other matters as were admissible to him in the Himachal Pradesh University on the day immediately preceding the appointed day:

Provided that such an inherited teacher, officer and other employee shall have the right to opt for the service conditions as may be offered by the University:

Provided further that in the event of any dispute or difficulty in the implementation of the provisions of this section, the matter shall be referred to the Government, the decision of which shall be final.”

13. In section 40 of the principal Act, the word “The” occurring for the first time shall be corrected as “the” and before the words “the age of retirement” the words, figures and sign “Save as provided in section 39,” shall be inserted. Amendment of section 40.

14. After the existing clause (i) of sub-section (1) of section 44 of the principal Act, the following new clause (i-a) shall be inserted, namely:— Amendment of section 44.
“(i-a) the Pro-Vice-Chancellor;”.

Amendment
of section
55.

15. After the existing clause (f) of section 55 of the principal act, the following new clause (ff) shall be inserted, namely:—

“(ff) procedure of appointment, emoluments and conditions of service of the Pro-Vice-Chancellor and his powers;”.

Repeal and
savings.

16. (1) The Himachal Pradesh Krishi Vishva Vidyalaya (Second Amendment) Ordinance, 1980 is hereby repealed.

6 of 1980

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done, or taken, under this Act, as if this Act was in force on the day on which such thing was done or action was taken.

STATEMENT OF OBJECTS AND REASONS

When the Himachal Pradesh Krishi Vishva Vidyalaya Act, 1978 was enacted, it was conceived in the very background of the establishment of the Himachal Pradesh Krishi Vishva Vidyalaya that the Solan campus of the said Vidyalaya would be the centre for specialization in the disciplines of Horticulture and forestry, so that special attention could be paid to these disciplines. But since the headquarter of the Krishi Vishva Vidyalaya is located at Palampur, *i. e.* a place quite far off from the aforesaid Solan campus of the Vishva Vidyalaya, it is felt that these two disciplines are not being paid the adequate attention. The functioning of the Solan campus came in for adverse public criticism and as a result of which it was assured on the Floor of the House that functional and financial autonomy will be given to the Solan campus so that there are not delays/difficulties in the implementation of various horticultural development programmes being implemented at that campus. In order to tide over the problem it has been decided to provide a Pro-Vice-Chancellor to this campus who will be responsible for the proper development of these two disciplines at the Solan campus of the Himachal Pradesh Krishi Vishva Vidyalaya and this object is sought to be achieved by way of making necessary amendments, wherever necessary, in the Himachal Pradesh Krishi Vishva Vidyalaya Act, 1978.

Secondly sub-section (2) of section 39 of the Himachal Pradesh Krishi Vishva Vidyalaya Act, 1978, provides that the teachers, officers and the employees of the Himachal Pradesh University working in the Agriculture Complex on and from the appointed day *i.e.* 1-11-1978 shall hold office or service in the Himachal Pradesh Krishi Vishva Vidyalaya on the same terms and conditions and with rights to pension, provident fund and gratuity as would have been admissible to them in the Himachal Pradesh University and they shall continue to do so, unless and until their employment in the Himachal Pradesh Krishi Vishva Vidyalaya is duly terminated, or until their terms and conditions of service are duly altered by the said Krishi Vishva Vidyalaya. The intention of the Government for the enactment of the aforesaid provisions was to protect the service conditions of the employees of the Agricultural Complex as were on the date of incorporation of the Himachal Pradesh Krishi Vishva Vidyalaya. But it was never intended to bind the Himachal Pradesh Krishi Vishva Vidyalaya in relation to its staff inherited from the Himachal Pradesh University by the decisions which the Himachal Pradesh University may take in future in respect of the service conditions of its employees. Moreover, the provisions of section 40 are in contradiction with the aforesaid provisions of section 39(2) *ibid.* In order to do away with the contradictory provisions in the aforesaid Act and also to empower the Himachal Pradesh Krishi Vishva Vidyalaya to determine the future terms and conditions of the staff (including the staff inherited from the Himachal Pradesh University), necessary immediate amendments were required to be made in the principal Act. The Governor was pleased to promulgate the Himachal Pradesh Krishi Vishva Vidyalaya (Amendment) Ordinance, 1980 (Himachal Pradesh Ordinance No. 2 of 1980) on the 11th July, 1980. The copies of the aforesaid Ordinance were laid before the State Legislative Assembly in its last session. The Bill No. 6 of 1980 to replace the aforesaid Ordinance was also introduced but the same could not be passed. By virtue of the provisions contained in para (a) of clause (2) of Article 213 of the Constitution, the Ordinance promulgated by the Governor on the 11th July, 1980 was to cease to operate at the expiration of six weeks from the re-assembly of the Assembly after its promulgation.

Since the Legislative Assembly was not in session and the circumstances existed which again rendered it necessary for the Governor to take immediate action by promulgating an Ordinance under Article 213 (1) of the Constitution of India, the Himachal Pradesh Krishi Vishva Vidyalaya (Second Amendment) Ordinance, 1980 (Ordinance No. 6 of 1980) was promulgated on 17-11-1980 and the same is required to be replaced a regular Act.

In order to make provisions that the amendments of sections 39 and 40 of the principal Act shall have the retrospective effect with effect from the 1st day of November, 1978 and to ensure that the said amendments remain in conformity with the provisions of sub-section (2) of section 1 of the Himachal Pradesh Ordinance No. 2 of 1980, the sub-section (2) of section 1 of the Himachal Pradesh Ordinance No. 6 of 1980, has to be amended.

This Bill seeks to achieve the aforesaid objects and to replace the aforesaid Ordinance with minor modifications.

SIMLA:

The 1st April, 1981.

SUKH RAM,
Minister-in-charge.

FINANCIAL MEMORANDUM

Clause 8 of the Bill provides for the appointment of the Pro-Vice-Chancellor for Solan Campus of the Himachal Pradesh Krishi Vishva Vidyalaya, Palampur. It is estimated that it would entail non-recurring expenditure to the extent of Rs. 1,50,000 and recurring expenditure to the tune of Rs. 2,00,300. Besides, capital expenditure will be to the extent of Rs. 4,00,000. Thus, the total expenditure for this office works out to be Rs. 7,50,300. The expenditure will be met from the consolidated fund of the State of Himachal Pradesh by way of grant-in-aid to the University.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of Bill seeks to amend section 55 of the principal Act, to empower the Board of Management of the University to make statutes to lay the procedure of appointment and conditions of service of the Pro-Vice-Chancellor and his powers subject to the provisions of section 56 of the principal Act. This delegation is essential and normal in character.

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

(Agriculture Department File No. Agr. A(10)-4/79(Pt.))

The Governor of Himachal Pradesh, having been informed of the subject matter of the Himachal Pradesh Krishi Vishva Vidyalaya (Amendment) Bill, 1981, recommends, under Article 207 of the Constitution of India, the introduction and consideration of the Bill by the Legislative Assembly.

STATEMENT EXPLAINING CIRCUMSTANCES WHICH NECESSITATED MODIFICATIONS IN THE ORDINANCE NO. 6 OF 1980

In order to make provisions that the amendments of sections 39 and 40 of the principal Act, shall have the retrospective effect from the 1st day of November, 1978 and to ensure that these amendments shall remain in conformity with the provisions of sub-section (2) of section 1 of Himachal Pradesh Ordinance No. 2 of 1980, the provisions of sub-section (2) of section 1 of the Himachal Pradesh Ordinance No. 6 of 1980, now sought to be replaced, had to be amended.

शिमला-171004, 1 अप्रैल, 1981

संख्या 1-24/81-वि० स०.—हिमाचल प्रदेश विधान सभा प्राकृत्य एवं कार्य संचालन नियमावली, 1973 के नियम 135 के अन्तर्गत, दि हिमाचल प्रदेश को-ऑपरेटिव सोसायटीज (अमैन्डमेंट) बिल, 1981 (बिल नं० 9 आफ 1981) जो हिमाचल प्रदेश विधान सभा में दिनांक, 1 अप्रैल, 1981 को पुरःस्थापित किया गया है, सर्वसाधारण की सूचनार्थ राजपत्र में मुद्रित करने के लिए प्रेषित किया जाता है।

राज कुमार महाजन,
सचिव।

Bill No. 9 of 1981.

THE HIMACHAL PRADESH CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 1981

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

further to amend the Himachal Pradesh Co-operative Societies Act, 1968 (Act No. 3 of 1969).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Thirty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Co-operative Societies (Amendment) Bill, 1981.

Short title and commencement.

(2) It shall come into force at once.

3 of 1969 2. In section 2 of the Himachal Pradesh Co-operative Societies Act, 1968 (hereinafter called the principal Act),—

Amendment of section 2.

(a) after clause (6) the following new clause (6-A) shall be inserted, namely:—

4 of 1961 “(6-A) ‘Deposit Insurance Corporation’ means the Deposit Insurance and Credit Guarantee Corporation established under section 3 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961”; and

(b) after clause 12 the following new clause (12-A) shall be inserted, namely:—

2 of 1934 “(12-A) ‘Reserve Bank’ means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934;”.

3. For the existing sign “.” occurring at the end of sub-section (1) of section 14 of the principal Act, the sign “:” shall be substituted and thereafter the following proviso shall be inserted, namely:—

Amendment of section 14.

“Provided that in case of an insured co-operative bank, no resolution under this sub-section shall be passed without the prior approval in writing of the Reserve Bank of India.”

4. In sub-section (2) of section 49 of the principal Act, for the words and figures “under section 73” the words, signs and figures “under section 69, 73 and 88” shall be substituted.

Amendment of section 49.

5. For the existing proviso to sub-section (1) of section 69 of the principal Act, the following proviso shall be substituted, namely:—

Amendment of section 69.

“Provided that no such inquiry shall be held after the expiry of six years from the date on which any act of commission or omission referred to in this sub-section comes to knowledge.”

6. For the existing clause (a) of sub-section (2) of section 72 of the principal Act, the following clause (a) shall be substituted, namely:—

Amendment of section 72.

“(a) a claim by the society for any debt or demand due to it from a member or an employee, or the nominee, heir or legal representative of a deceased member or an employee, whether such debt or demand be admitted or not;”

Amendment
of section 80.

7. At the end of existing section 80 of the principal Act, the following new sub-section (3) shall be inserted, namely:—

“(3) Any private transfer or delivery of, or an encumbrance or charge on, property, made or created after the order of the liquidator under this section shall be null and void as against the society under liquidation.”

Amendment
of section 94.

8. In section 94 of the principal Act,—

(a) for the sign “.” occurring at the end of sub-section (2) the sign“:” shall be substituted; and

(b) after the existing proviso to sub-section (2) so amended the following new second proviso shall be inserted, namely:—

“Provided further that every application under sub-sections (1) and (2) to the State Government or the Registrar, as the case may be, shall be made within ninety days from the date of communication of the order sought to be reviewed or revised.”

Addition of
Chapter
XIII-A.

9. After Chapter XIII of the principal Act, the following new Chapter XIII-A shall be added, namely:—

“CHAPTER XIII-A

INSURED CO-OPERATIVE BANKS

97—A. *A winning up order of insured banks.*—Notwithstanding anything contained in this Act, in the case of any insured co-operative bank—

- (i) an order for the winding up, or an order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction (including division or reorganisation), of the bank may be made only with the previous sanction in writing of the Reserve Bank of India;
- (ii) an order for the winding up of the bank shall be made by the Registrar if so required by the Reserve Bank of India in the circumstances referred to in section 13-D of the Deposit Insurance and Credit Guarantee Corporation Act, 1961;
- (iii) if so required by the Reserve Bank of India in the public interest or for preventing the affairs of the bank being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of the bank, an order shall be made for the supersession (removal) of the committee of management or other managing body (by whatever name called) of the bank and the appointment of an administrator therefor for such period or periods, not exceeding five years in the aggregate, as may from time to time be specified by the Reserve Bank of India, and the administrator so appointed shall, after the expiry of his

term of office, continue in office until the day immediately preceding the date of the first meeting of the new committee of such bank;

- (iv) no appeal, revision or review shall lie or be permissible against an order such as is referred to in clauses (i), (ii) or (iii) made with the previous sanction in writing or on the requisition of the Reserve Bank of India and such order or sanction shall not be liable to be called in question in any manner;
- (v) the liquidator or the insured co-operative bank or transferee bank, as the case may be, shall be under an obligation to repay the Deposit Insurance Corporation established under the Deposit Insurance and Credit Guarantee Corporation Act, 1961 in the circumstances, to the extent and in the manner referred to in section 21 of that Act.

47 of 1961

Explanation.—For the purposes of this section,—

47 of 1961

(i) “a co-operative bank” means a bank as has been defined in the Deposit Insurance and Credit Guarantee Corporation Act, 1961;

47 of 1961

(ii) “insured co-operative bank” means a society which is an insured bank under the provisions of the Deposit Insurance and Credit Guarantee Corporation Act, 1961;

(iii) “transferee bank” in relation to an insured co-operative bank means a co-operative bank,—

- (a) with which such insured co-operative bank is amalgamated, or
- (b) to which the assets and liabilities of such insured co-operative bank are transferred, or
- (c) into which such insured co-operative bank is divided or converted under the provisions of section 14.”

STATEMENT OF OBJECTS AND REASONS

The Deposit Insurance and Credit Guarantee Corporation Act, 1961, has been enacted by the Union Government for providing insurance to depositors having deposits upto 20,000 rupees against the risk of loss of their deposits. The insurance of the bank deposits is of great importance as it on the one hand tends to infuse confidence in the minds of general masses and on the other hand encourages banking habit amongst them and also provides stability to the banking system thereby accentuating the process of deposit mobilisation. After the enactment of the Himachal Pradesh Co-operative Societies, Act, 1968 many developments have taken place. In order to mobilise the deposits which can be used to provide short term and medium term finance to agriculturists and artisans in the Pradesh to boost their production it has been found necessary to amend the said Act, so that the co-operative banks functioning in this Pradesh may get themselves registered as insured banks under the provisions of the Deposit Insurance and Credit Guarantee Corporation Act, 1961.

Besides, it has also been noted that acts of omission and commission are sometimes detected by audit or re-audit or inquiry which are ordered sometime late and the limit of six years prescribed from the date of commission lapses, thereby many cases involving breach of trust, wilful negligence or misappropriation and the like remain un-investigated. It has therefore become necessary to amend section 69.

In order to safeguard the interests of the societies and to effect recovery from the employees of the co-operative societies it is also necessary to amend sub-section (2) of section 72.

To safeguard the interests of the society under liquidation it has become necessary that the members of the society under liquidation may be debarred to make any private transfer or delivery of, or encumbrance of, charge on, property made or created after the order of the liquidator has been made. As such the amendment of section 80 has become necessary.

The existing provisions contained in section 94 of the Himachal Pradesh Co-operative Societies Act, 1968 make provision for the review of the orders passed by the Registrar, Co-operative Societies, or person subordinate to him or action on his authority by the Government and also the revision of the orders passed by the Registrar, Co-operative Societies himself, but no time limit has been prescribed. Consequently revision petitions are being made even after the expiry of 10 to 12 years of the orders/awards passed or made by the Registrar or the arbitrators. So a period of limitation of 90 days has been proposed to be prescribed for making such petitions.

This Bill seeks to achieve the aforesaid objects.

SIMLA :
The 1st April, 1981.

SHIV KUMAR,
Minister-in-charge.

FINANCIAL MEMORANDUM
Nil

MEMORANDUM REGARDING DELEGATED LEGISLATION
Nil

शिमला-171004, 1 अप्रैल, 1981

संख्या 1-25/81-वि० म०.—हिमाचल प्रदेश विधान सभा प्रक्रिया एवं कार्य संचालन नियमावली, 1973 के नियम 135 के अन्तर्गत, दि हिमाचल प्रदेश रेजिन एण्ड रेजिन परोडक्स (रैगुलेशन ऑफ ट्रेड) बिल, 1981 (बिल नं० 10 ऑफ 1981) जो हिमाचल प्रदेश विधान सभा में 1 अप्रैल, 1981 को पुरः स्थापित किया गया है, सर्व साधारण की सूचनार्थ राजपत्र में मुद्रित करने के लिए प्रेषित किया जाता है।

राज कुमार महाजन,
सचिव।

विधेयक संख्यांक 1981 का 10

हिमाचल प्रदेश बिरोजा तथा बिरोजा उत्पाद (व्यापार विनियमन) विधेयक, 1981 (जैसा कि विधान सभा में पुरःस्थापित किया गया)

राज्य सरकार द्वारा अन््यों का अपवर्जन करके बिरोजा के क्रय तथा वितरण का व्यापार चलाये जाने और बिरोजा पर आधारित विभिन्न वस्तुओं के निर्माण और तैयारी तथा उस से सम्बन्धित मामलों को विनियमित करने के लिए जन साधारण के हित में व्यवस्था करने हेतु

विधेयक।

भारत गणराज्य के बत्तीसवें वर्ष में हिमाचल प्रदेश विधान सभा द्वारा निम्नलिखित रूप में अधिनियमित हो :—

अध्याय-1

प्रारम्भिक

1. (1) यह अधिनियम हिमाचल प्रदेश बिरोजा तथा बिरोजा उत्पाद (व्यापार विनियमन) अधिनियम, 1981 कहा जा सकता है।
- (2) इसका विस्तार सम्पूर्ण हिमाचल प्रदेश में होगा।
- (3) यह 13 फरवरी, 1981 से प्रवृत्त हुआ समझा जायेगा।

संक्षिप्त नाम,
विस्तार तथा
प्रारम्भ।

अध्याय-II

बिरोजा व्यापार का विनियमन

2. इस अधिनियम, में जब तक सन्दर्भ से अन्यथा अपेक्षित न हो,—

परिभाषाएं

- (क) “प्राधिकृत अधिकारी” से राज्य सरकार का अधिकारी या अन्य व्यक्ति अभिप्रेत है जिसे वह अपनी ओर से बिरोजा त्रय या विक्रय के लिए और धारा 5 के अधीन अनुज्ञा-पत्र देने के लिए प्राधिकृत हो;
- (ख) “विहित” से इस अधिनियम के अधीन बनाए गए नियमों द्वारा विहित अभिप्रेत है;
- (ग) “बिरोजा” से चीड़ या कैल के पेड़ों के छेवन द्वारा निकाला गया स्राव अभिप्रेत है;
- (घ) “बिरोजा डिपो” से ऐसा स्थान अभिप्रेत है जिसे मुख्य अरण्यपाल, हिमाचल प्रदेश द्वारा डिपो के रूप में उस डिपो के सम्बन्ध में विनिर्दिष्ट क्षेत्र से निकाले गए बिरोजे के क्रय, संग्रह और विक्रय के लिए विनिर्दिष्ट करे;
- (ङ) “बिरोजा उत्पाद” से बिरोजे के प्रसंस्करण से प्राप्त व्युत्पादन अभिप्रेत है और इसमें बिरोजा, तारपीन, जमाया हुआ बिरोजा और सीधे बिरोजे से निर्मित पेंट तथा वार्निश भी समाविष्ट है;
- (च) “बिरोजा छेवक” से बिरोजा छेवने वाला व्यक्ति अभिप्रेत है;
- (छ) “स्वामी” से ऐसा व्यक्ति अभिप्रेत है जिसके कब्जे, प्रबन्ध या नियन्त्रण में चीड़/चील या कैल के पड़ हों;
- (ज) “इकाई” से धारा 3 के अधीन गठित इकाई अभिप्रेत है;

(ज) जो शब्द तथा पद इस अधिनियम में प्रयुक्त किन्तु अपरिभाषित हैं और हिमाचल प्रदेश में अपनी प्रवृत्ति के सम्बन्ध में समय-समय पर यथा संशोधित भारतीय वन अधिनियम, 1927 में परिभाषित हैं, उनके वही अर्थ होंगे जो उक्त अधिनियम में उनके लिए दिए गए हैं।

1927 क

इकाइयों का गठन।

3. राज्य सरकार, शासकीय गजट में अधिसूचना द्वारा, राज्य को उतनी इकाइयों में बांट सकती है जितनी वह उचित समझे, और जब तक ऐसी अधिसूचना द्वारा परिवर्तन न किया जाए प्रत्येक वन खंड (जैसा वह राज्य सरकार के सामान्य या विशेष आदेश से तत्समय परिसीमित हो) एक इकाई होगी।

बिरोजा आदि के विक्रय तथा क्रय इत्यादि पर प्रतिबन्ध।

4. इस अधिनियम के प्रारम्भ की तिथि को या उसके पश्चात्—

(क) कोई भी व्यक्ति जब तक कि वह धारा 10 के अधीन और अनुसार पंजीकृत न हो, न बिरोजा छेवन करेगा, या न किसी बिरोजा उत्पाद का निर्माण करेगा और न किसी बिरोजा या बिरोजा उत्पाद का निर्यात करेगा;

(ख) कोई व्यक्ति राज्य सरकार या किसी प्राधिकृत अधिकारी से भिन्न किसी व्यक्ति को बिरोजा का विक्रय नहीं करेगा;

(ग) राज्य सरकार या इसके किसी प्राधिकृत अधिकारी से भिन्न कोई व्यक्ति किसी बिरोजा छेवक/बिरोजा के स्वामी से बिरोजा क्रय नहीं करेगा;

(घ) राज्य सरकार या किसी प्राधिकृत अधिकारी से भिन्न कोई व्यक्ति बिरोजा का परिवहन, निम्नलिखित मामलों को छोड़ कर, नहीं करेगा—

(i) जहां वह बिरोजा का छेवक होने के कारण उसका परिवहन जिस क्षेत्र में बिरोजे का छेवन किया जाए उसके लिए विनिर्दिष्ट बिरोजा डिपो को करे, या

(ii) जहां वह इस राज्य सरकार या किसी प्राधिकृत अधिकारी की ओर से परिवहन करे;

(ङ) राज्य सरकार या किसी प्राधिकृत अधिकारी से भिन्न कोई व्यक्ति किसी इकाई में निर्मित बिरोजा उत्पाद का उस इकाई के बाहर किसी स्थान को ऐसे प्राधिकारी द्वारा ऐसी रीति से और ऐसे निबन्धनों तथा शर्तों के अधीन रहते हुए, जो विहित की जाएं, इस सम्बन्ध में जारी किए गए अनुज्ञा-पत्र के बिना परिवहन नहीं करेगा।

विक्रय, परिवहन आदि के लिए अनुज्ञा-पत्र।

5. (1) धारा 4 में किसी बात के होते हुए भी, राज्य सरकार या कोई प्राधिकृत अधिकारी ऐसे निबन्धनों तथा शर्तों पर और ऐसी रीति से जो विहित की जाएं—

(क) किसी व्यक्ति को, जिसने इस अधिनियम के प्रारम्भ होने से पूर्व कोई बिरोजा क्रय किया हो, ऐसा बिरोजा परिवहन करने तथा राज्य सरकार या प्राधिकृत अधिकारी से भिन्न किसी व्यक्ति को विक्रय करने के लिए अनुज्ञा दे सकता है तथा राज्य सरकार या प्राधिकृत अधिकारी से भिन्न किसी व्यक्ति को उसका क्रय और परिवहन करने की अनुज्ञा दे सकता है, या

(ख) किसी व्यक्ति को, जिसने राज्य सरकार या प्राधिकृत अधिकारी से बिरोजा उत्पाद के निर्माण करने के लिए बिरोजा क्रय किया हो, उसके परिवहन और किसी बिरोजा जिसे वह बिरोजा उत्पादों के निर्माण में उपयोग करने में असमर्थ रहा हो, को विक्रय करने की अनुज्ञा दे सकता है, या

(ग) किसी व्यक्ति को जिसने हिमाचल प्रदेश के बाहर बिरोजा क्रय किया हो उसे राज्य के अन्दर लाने की अनुज्ञा या तो राज्य में बिरोजा उत्पादों के निर्माण के लिए या हिमाचल प्रदेश में बाहर अन्यत्र उसके परिवहन के लिए दे सकता है।

(2) कोई व्यक्ति जिसे उपधारा (1) के अधीन अनुज्ञा-पत्र जारी किया गया है विहित शुल्क के देने का दायी होगा।

6. (1) राज्य सरकार, प्रत्येक वर्ष के लिए और प्रत्येक इकाई के लिए जिसमें बिरोजा का छेवन किया जाता हो, एक सलाहकार समिति गठित करेगी जिसमें राज्य सरकार द्वारा नाम निर्दिष्ट नौ से अनधिक सदस्य होंगे।

सलाहकार
समिति का
गठन।

(2) प्रत्येक ऐसी इकाई को सलाहकार समिति राज्य सरकार को समय-समय पर उचित और युक्तियुक्त कीमत निर्धारित करने के लिए, जिस पर उस इकाई में विक्रय के लिए प्रस्तुत बिरोजा राज्य सरकार द्वारा या उसकी ओर से क्रय किया जा सके, सलाह देगी और ऐसे अन्य विषयों पर भी सलाह देगी जो उसे राज्य सरकार द्वारा निर्दिष्ट किये जायें।

(3) समिति का कार्य विहित रीति से संचालित किया जाएगा।

7. (1) राज्य सरकार, निम्नलिखित तथ्यों को ध्यान में रखते हुए, कीमत निर्धारित करेगी जिस पर वर्ष पर्यन्त प्रत्येक इकाई में उसके द्वारा या लिए बिरोजा क्रय किया जाएगा, अर्थात्:—

राज्य सरकार
द्वारा कीमत
निर्धारित
करना।

(क) इकाई के सम्बन्ध में पिछले तीन वर्ष के दौरान इस अधिनियम के अधीन बिरोजा के लिए निर्धारित की गई कीमत, यदि कोई हो;

(ख) इकाई में छेवे गए बिरोजे की किस्म;

(ग) परिवहन व्यय;

(घ) इकाई में श्रमिक के लिए प्रचलित मजदूरी की सामान्य दर;

(ङ) बिरोजा निस्सारण का व्यय;

(च) बिरोजा पैक करने का व्यय जिसके अन्तर्गत उस डिब्बे का मूल्य भी है जिसमें बिरोजा दिया जाता है;

(छ) कोई अन्य तथ्य जिसे राज्य सरकार सुसंगत समझे।

(2) इस प्रकार निर्धारित कीमत राज्य सरकार द्वारा निदेशित रीति से प्रकाशित की जाएगी, और जिस वर्ष के सम्बन्ध में वह हो, उसके दौरान उसमें परिवर्तन नहीं किया जाएगा।

(3) इस प्रकार निर्धारित कीमत बिरोजा के शुद्ध भार के लिए होगी, जिसमें उस डिब्बे का भार सम्मिलित न होगा जिसमें बिरोजा पैक हो।

(4) यदि धारा 6 के अधीन सलाहकार समिति गठित कर दी गई हो तो राज्य सरकार उप-धारा (1) के अधीन कीमत निर्धारित करने के पूर्व, जहां व्यवहार्य हो, उससे परामर्श करेगी।

राज्य सरकार
विक्रय के लिए
प्रस्तुत समस्त
बिरोजा क्रय
करेगी ।

8. (1) राज्य सरकार या प्राधिकृत अधिकारी बिरोजा डिपो पर कार्य के सामान्य समय में उसे या उस के लिए विक्रयार्थ प्रस्तुत किये गये समस्त बिरोजा को धारा 7 के अधीन निर्धारित कीमत पर क्रय करने के लिए बाध्य होगी :

परन्तु यह कि प्राधिकृत अधिकारी को ऐसे बिरोजे को क्रय न करने से इन्कार करने का अधिकार होगा, जो उसकी राय में बिरोजा उत्पाद का निर्माण करने के प्रयोजनार्थ अनुपयुक्त हो ।

(2) उपधारा (1) के परन्तुक के अधीन प्राधिकृत अधिकारी के बिरोजा क्रय करने से इन्कार से व्यथित कोई व्यक्ति, इस प्रकार इन्कार किये जाने के पन्द्रह दिन के भीतर, और विहित रीति से, प्रभागीय वन अधिकारी या राज्य सरकार द्वारा उस निमित्त सशक्त अन्य अधिकारी को (जिसे आगे सक्षम अधिकारी कहा गया है) परिवाद कर सकता है ।

(3) उपधारा (2) के अधीन परिवाद प्राप्त होने पर, सक्षम अधिकारी संक्षिप्त जांच करेगा और परिवाद की प्राप्ति के तीस दिन के भीतर ऐसा आदेश देगा जो वह उचित समझे, और उस दशा में, जब उसे क्रय करने से इन्कार करना अनुचित प्रतीत हो तो वह प्राधिकृत अधिकारी को उसे क्रय करने का निदेश दे सकता है ।

(4) यदि सक्षम प्राधिकारी को बिरोजा की मनाही उचित प्रतीत हो किन्तु उसकी राय में बिरोजा कम कीमत पर क्रय किया जा सकता है तो वह प्राधिकृत अधिकारी को उसे उस कीमत पर, जिसे वह उचित समझे, क्रय करने का निदेश दे सकता है ।

(5) उपधारा (1) में किसी बात के होते हुए भी, यदि राज्य सरकार या किसी प्राधिकृत अधिकारी को यह विश्वास करने का कारण हो कि विक्रय के लिए प्रस्तुत किये गए बिरोजे का छेवन किसी ऐसी भूमि पर स्थित वृक्षों से किया गया हो जो राज्य सरकार, कैंटोनमेंट बोर्ड, नगर निगम, नगरपालिका, अधिसूचित क्षेत्रीय कमेटी, या ग्राम पंचायत में निहित थी तो ऐसे बिरोजे का विनियोग कीमत का भुगतान किये बिना, और केवल ऐसे संग्रह-प्रभार का, यदि कोई हो, भुगतान करके जिसे राज्य सरकार या प्राधिकृत अधिकारी अवधारित करे, किया जा सकता है ।

(6) उपधारा (5) के अधीन की गई किसी कार्यवाही के सम्बन्ध में उपधारा (2) से (4) के उपबन्ध यथा आवश्यक परिवर्तन सहित लागू होंगे ।

(7) इस धारा के अधीन दिया गया प्रत्येक आदेश अन्तिम होगा ।

वृक्षों का छेवन
जिनका छेवन
न किया जा
रहा हो ।

9. (1) यदि राज्य सरकार अथवा किसी प्राधिकृत अधिकारी को यह प्रतीत होता है कि किसी इकाई में छेवन योग्य आकार के किन्हीं चीड़/चील अथवा कैल के वृक्षों का छेवन नहीं किया जा रहा है तो राज्य सरकार अथवा प्राधिकृत अधिकारी नोटिस द्वारा ऐसे वृक्षों के स्वामी से विनिर्दिष्ट अवधि के भीतर ऐसे वृक्ष से छेवन आरम्भ करने की अपेक्षा कर सकता है ।

(2) यदि उपधारा (1) के अधीन नोटिस तामील किये जाने के पश्चात् वृक्ष का स्वामी ऐसे नोटिस का अनुपालन न करे तो राज्य सरकार या प्राधिकृत अधिकारी बिरोजा निस्सारण के लिए विहित रीति से वृक्ष को छेवन करायेगा ।

(3) उपधारा (2) के अधीन किसी वृक्ष से निस्सारित समस्त बिरोजा इस अधिनियम और तदधीन बनाये गये नियमों के अनुसार बेच दिया जाएगा और उस का मूल्य उस में से छेवन व्यय काटने के पश्चात् ऐसे वृक्षों के स्वामी को दे दिया जायेगा ।

10. बिरोजा का प्रत्येक छेवक, बिरोजा उत्पाद का प्रत्येक निर्माता और बिरोजा या बिरोजा उत्पाद का प्रत्येक निर्यातकर्ता ऐसी फीस, ऐसे प्राधिकारी को और ऐसी रीति से जो विहित की जाए, देने पर पंजीकरण का हकदार होगा। बिरोजा छेवकों आदि का पंजीकरण।

11. राज्य सरकार द्वारा क्रय किये गये बिरोजा का विन्मय या अन्य प्रकार से निस्सारण ऐसी रीति से किया जायेगा जैसी राज्य सरकार के सामान्य या विशेष आदेश द्वारा निर्देशित हो। बिरोजा निस्सारण।

12. राज्य सरकार धारा 19 के अधीन नियम बनाने की शक्ति को छोड़ कर, सामान्य का विशेष आदेश द्वारा, इस अधिनियम या इसके अन्तर्गत बनाये गये नियमों के अधीन अपनी कोई शक्ति या कृत्य सहायक अरण्यपाल अथवा राज्य वन निगम के उप-मण्डल प्रबन्धक से अन्यून पद के किसी अधिकारी को प्रत्यायोजित कर सकती है जो ऐसी शर्तों या निबन्धनों के अधीन रहते हुए, यदि कोई हो, जिन्हें राज्य सरकार आदेश में विनिर्दिष्ट करे, उनका प्रयोग या सम्पादन करेगा। शक्तियों का प्रत्यायोजन।

13. (1) कोई पुलिस अधिकारी जो उप-निरीक्षक के पद से नीचे का न हो, या कोई वन अधिकारी, इस अधिनियम या इसके अधीन बनाये गये नियमों के उपबन्धों का अनुपालन सुनिश्चित करने या अपना यह समाधान करने के उद्देश्य से कि उक्त उपबन्धों का अनुपालन किया गया है:— प्रवेश करने, तलाशी लेने, अधिग्रहण करने आदि की शक्ति।

(i) बिरोजा या बिरोजा उत्पाद के परिवहन के लिए प्रयुक्त या प्रयुक्त किये जाने के लिए अभिप्रेत किसी व्यक्ति, जलयान, गाड़ी या पात्र को रोक सकता है और उसकी तलाशी ले सकता है;

(ii) किसी स्थान में प्रवेश कर सकता है और उसकी तलाशी ले सकता है;

(iii) बिरोजा उत्पाद को जिसके सम्बन्ध में उसे यह सन्देह हो कि इस अधिनियम या इसके अधीन बनाये गये नियमों के किसी उपबन्ध का उल्लंघन किया गया है या किया जा रहा है या किया जाने वाला है, ऐसे पात्र सहित जिसमें ऐसा बिरोजा रखा या पहुंचाना हो, अधिगृहीत कर सकता है।

1974 का 2

(2) तलाशी लेने और अधिग्रहण करने के सम्बन्ध में दण्ड प्रक्रिया संहिता, 1973 की धारा 100 के उपबन्ध जिस प्रकार लागू होते हैं उसी प्रकार से वे, यथाशक्य, इस धारा के अधीन तलाशी लेने और अधिग्रहण करने के सम्बन्ध में लागू होंगे।

14. यदि कोई व्यक्ति इस अधिनियम या इसके अधीन बनाए गये नियमों के किसी उपबन्ध का उल्लंघन करता है तो उसके बारे में यह समझा जायेगा कि उसने वन अपराध किया है और बिरोजा अथवा बिरोजा उत्पाद को, यदि कोई हो, जिसके सम्बन्ध में ऐसा अपराध किया जाता है, ऐसा अपराध किया जाने के सम्बन्ध में वन उपज समझा जाएगा और भारतीय वन अधिनियम, 1927 के अध्याय 9 के उपबन्ध जैसे कि इस राज्य में प्रवृत्त हैं तदनुसार आवश्यक उपान्तरण सहित लागू होंगे। शास्ति

1927 का 16

15. (1) यदि इस अधिनियम के अधीन किसी अपराध को करने वाला व्यक्ति कोई कम्पनी हो तो वह कम्पनी और अपराध करने के समय उस कम्पनी के कार्य संचालन का प्रभारी और उसके लिए कम्पनी के प्रति उत्तरदायी प्रत्येक व्यक्ति उस अपराध के लिए अपराधी माना जाएगा और तदनुसार कार्यवाही किये जाने और दण्ड दिये जाने का भागी होगा। कम्पनियों द्वारा अपराध।

परन्तु यह कि इस उपधारा की कोई बात किसी ऐसे व्यक्ति को किसी दण्ड का भागी नहीं बनायेगी, यदि वह यह सिद्ध कर दे कि अपराध उसकी जानकारी के बिना किया गया था या उसने उस अपराध के किये जाने के निवारण हेतु सभी सम्यक् तत्परता बरती थी।

(2) उपधारा (1) में किसी बात के होते हुए भी, जबकि इस अधिनियम के अधीन कोई अपराध किसी कम्पनी ने किया हो और यह सिद्ध हो जाए कि वह अपराध उस कम्पनी के किसी प्रबन्ध अभिकर्ता, सचिव और कोषाध्यक्ष, निदेशक, प्रबन्धक या अन्य अधिकारी की सम्मति या मौनानुकूलता से किया गया था उपेक्षाजनित है तो वह प्रबन्ध अभिकर्ता, सचिव और कोषाध्यक्ष, निदेशक, प्रबन्धक या अन्य अधिकारी भी उस अपराध के लिए अपराधी माना जायेगा और तदनुसार कार्यवाही किये जाने और दण्ड दिए जाने का भागी होगा।

स्पष्टीकरण.—इस धारा के प्रयोजनों के लिए—

(क) “कम्पनी” का तात्पर्य किसी निगमित निकाय से है और इसके अन्तर्गत कोई फर्म या व्यक्तियों का अन्य समुदाय भी समाविष्ट होगा, और

(ख) “निदेशक” का किसी फर्म के सम्बन्ध में तात्पर्य उस फर्म के भागीदार से है।

अपराधों का संज्ञान।

16. किसी वन अधिकारी द्वारा जो रेंज अधिकारी के पद से कम का न हो या ऐसे अन्य अधिकारी द्वारा जिसे राज्य सरकार सामान्य या विशेष आदेश द्वारा इस निमित्त सशक्त करे, उन तथ्यों के सम्बन्ध में जिनसे कि अपराध बनता हो, दी गयी लिखित रिपोर्ट के सिवाय, कोई भी न्यायालय इस अधिनियम के अधीन दण्डनीय किसी अपराध का संज्ञान नहीं करेगा।

अधिनियम के उपबन्धों का अधि-भावी प्रभाव।

17. किसी अन्य विधि या किसी संविदा या अन्य लिखित में किसी असंगत बात के होते हुए भी, इस अधिनियम के उपबन्ध प्रभावी होंगे।

सद्भावपूर्वक किये गये कार्यों के सम्बन्ध में अपवाद।

18. (1) इस अधिनियम या इसके अधीन बनाये गये नियमों के उपबन्धों के अनुसरण में किये गये या किये जाने के लिए अभिप्रेत किसी बात के लिए किसी व्यक्ति के विरुद्ध कोई वाद, अभियोजन या विधिक कार्यवाही नहीं की जा सकेगी।

(2) राज्य सरकार या प्राधिकृत अधिकारी के विरुद्ध इस अधिनियम या इसके अधीन बनाये गये नियमों के उपबन्धों के आधार पर या ऐसी किसी बात से जो इस अधिनियम या इसके अधीन बनाये गये नियमों के उपबन्धों के अनुसरण में सद्भावपूर्वक की गई हो या की जाने के लिए अभिप्रेत हो, किसी हानि के लिए जो हुई हो या जिसके होने की सम्भावना हो या किसी क्षति के लिए जो हुई हो या जिसके होने की सम्भावना हो, कोई वाद या अन्य विधिक कार्यवाही नहीं की जा सकेगी।

नियम बनाने की शक्ति।

19 (1) राज्य सरकार, शासकीय राजपत्र में अधिसूचना द्वारा इस अधिनियम के प्रयोजनों को कार्यान्वित करने के लिए नियम बना सकती है।

(2) विशेषतः और पूर्वोक्त शक्ति की व्यापकता पर प्रतिकूल प्रभाव डाले बिना ऐसे नियमों में निम्नलिखित सभी या किसी विषय की व्यवस्था की जा सकती है, अर्थात्:—

(क) विरोधा की मूल्य सूची का प्रकाशन;

(ख) इस अधिनियम के अधीन जांच करने की रीति;

(ग) प्राधिकारी जिसके द्वारा, रीति जिसके अनुसार और शर्तें जिन पर

धारा 5 के अधीन अनुज्ञा-पत्र जारी किया जा सकता है और ऐसे अनुज्ञा-पत्रों के लिए देय फीस;

(घ) धारा 8 के अधीन जिस विरोजा को कय करने से इन्कार किया गया हो, उसका निस्सारण;

(ङ) धारा 9 के अधीन वृक्षों से विरोजा छेवने की रीति;

(च) धारा 10 के अधीन रजिस्ट्रीकरण की रीति, अवधि जिसके भीतर ऐसा रजिस्ट्रीकरण किया जाएगा और उसके लिए देय फीस;

(छ) किस्म का अवधारण करने के प्रयोजनों के लिए विरोजा की विशिष्टियां;

(ज) कोई अन्य विषय जो विहित किया जाना हो या किया जाए।

(3) इस धारा के अधीन बनाया गया प्रत्येक नियम, बनाये जाने के पश्चात्, यथाशक्यशीघ्र, राज्य विधान सभा के समक्ष, उस समय जब वह सत्र में हो, कुल मिलाकर कम से कम दस दिनों की कालावधि के लिए जो उसके एक सत्र या दो या इससे अधिक अनुक्रमिक सत्रों में समाविष्ट हो सकती है, रखा जाएगा और यदि, उस सत्र के जिसमें वह ऐसे रखा गया हो या क्रमवर्ती सत्रों के अवसान के पूर्व, विधान सभा नियम में कोई उपान्तरण करती है या फंसला करती है कि नियम नहीं बनाया जाना चाहिए तो तत्पश्चात्, यथास्थिति, वह नियम ऐसे उपान्तरित रूप में ही प्रभावी होगा या उसका कोई प्रभाव नहीं होगा किन्तु इस प्रकार कि ऐसा कोई उपान्तरण या वातिलकरण उस नियम के अधीन पहले की गई किसी बात की विधिमान्यता पर प्रतिकूल प्रभाव डाले बिना होगा।

(4) उपधारा (3) में किसी बात के होते हुए भी, इस अधिनियम के प्रारम्भ से एक वर्ष के भीतर बनाये गये कोई नियम ऐसे भूतलक्षी दिनांक से बनाये जा सकते हैं जो ऐसे प्रारम्भ से पूर्व न थे।

20. जहां अधिनियम के लागू होने से पूर्व किसी समय किसी व्यक्ति ने अपने द्वारा दिये जाने की प्रत्याशा में किसी व्यापारी से बिरोजा के विक्रय के लिए कोई संविदा कर ली थी और उस संविदा के अधीन व्यापारी को दिए जाने के लिए प्रत्याशित बिरोजा की कीमत का कोई अग्रिम ऐसे व्यापारी से प्राप्त कर लिया हो तो इस बात के होते हुए भी, कि धारा 4 और 17 के उपबन्धों के कारण वह संविदा अधिनियम के प्रवृत्त होने पर शून्य हो जाएगी, उक्त व्यक्ति और व्यापारी ऐसे अग्रिम का व्योरा देते हुए एक संयुक्त आवेदन-पत्र वन मंडल अधिकारी/अथवा उस द्वारा तदर्थ प्राधिकृत किसी अधिकारी को दे सकेंगे तथा तदोपरांत उक्त अधिकारी इस मत का यथाविधि समाधान हो जाने पर कि उक्त व्यक्ति ने आवेदन-पत्र स्वेच्छा से दिया है अधिकारी को यह निदेश दे सकते हैं कि उक्त व्यक्ति को और से उस व्यापारी को उक्त अग्रिम के बराबर धन (उक्त व्यक्ति के द्वारा उस व्यापारी को पहले ही भुगतान की गई धनराशि को कम करके) किसी व्याज या प्रतिकर के बिना धारा 8 के अधीन विक्रय किये गये बिरोजा के लिए उक्त व्यक्ति को देय कीमत में दिया जाए और ऐसे भुगतान की सीमा तक राज्य सरकार या प्राधिकृत अधिकारी का उस व्यक्ति के प्रति और उक्त व्यक्ति का व्यापारी के प्रति दायित्व उन्मुक्त हो जाएगा और उक्त व्यक्ति को कोई दायित्व उस अग्रिम के सम्बन्ध में कोई व्याज या प्रतिकर देने के लिए नहीं होगा।

संक्रमण-
कालीन
उपबन्ध।

21. हिमाचल प्रदेश बिरोजा तथा बिरोजा उत्पाद (व्यापार विनियमन) अध्यादेश, 1981 को एतद्वारा निरसित किया जाता है:

निरसन और
व्यावृत्ति।

परन्तु उक्त अध्यादेश के अधीन की गई कोई बात या की गई कोई कार्यवाही इस अधिनियम के अधीन की गई समझी जाएगी, मानो कि यह अधिनियम 13 फरवरी, 1981 को प्रारम्भ हो गया था।

कारणों और उद्देश्यों का विवरण

वर्तमान समय में अनुमानतयः 5,00,000 बिरोजा ब्लेजिज निजी भूमि या वनों में व्यक्तिगत स्वामित्व में हैं। उक्त निजी भूमि और वन सरकारी वनों से विकीर्ण हैं। इस विकीर्ण के कारण सरकारी वनों से अवैध रूप से बिरोजे के निस्सारण और सरकारी वनों से निकाले गये बिरोजे का हटाया जाना सहज हो जाता है। इसके साथ-साथ सार्वजनिक क्षेत्रों में स्थापित किए गए बिरोजा और तारपीन कारखानों को कच्चे माल की कमी के कारण मुचारू रूप से कार्य करना दुष्कर हो रहा है।

2. अतः इन छुट पुट चोरियों को नियंत्रित करने, वनों को विनाश से बचाने और राज्य में पहले से स्थापित कारखानों को कच्चा माल की आपूर्ति बनाए रखने हेतु, अन्यो का अपवर्जन करके, राज्य सरकार के लिए बिरोजे के क्रय और वितरण के व्यापार को अपने हाथ में लेना आवश्यक हो गया है।

3. क्योंकि बिरोजा छेवन ऋतु आरम्भ होने वाली थी तथा चील वृक्षों के निजी स्वामी शीघ्र ही बिरोजा ब्लेजिज के विक्रय का परिक्रामण करने वाले थे अतः उक्त बिरोजा तथा बिरोजा उत्पाद के व्यापार को लेने की सुगमता हेतु शीघ्र कार्रवाई करनी आवश्यक हो गई थी।

4. क्योंकि विषय अत्यन्त लोक महत्व का था और विधान सभा सत्र में नहीं थी और ऐसी परिस्थितियां विद्यमान थीं जिससे राज्यपाल को भारतीय संविधान के अनुच्छेद 213 के खण्ड (1) के अधीन शीघ्र कार्रवाई करनी आवश्यक हो गई, हिमाचल प्रदेश बिरोजा तथा बिरोजा उत्पाद (व्यापार विनियमन) अध्यादेश, 1981 (1981 का हिमाचल प्रदेश अध्यादेश संख्यांक 1) 13 फरवरी, 1981 को प्रख्यापित किया गया अब यह अध्यादेश नियमित अधिनियमिति द्वारा प्रतिस्थापित किया जाना अपेक्षित है।

यह विधेयक बिना किसी उपान्तरण के उपर्युक्त अध्यादेश को प्रतिस्थापित करने की व्यवस्था करता है।

हरदयाल,
प्रभारी मन्त्री।

शिमला :

दिनांक 1 अप्रैल, 1981:

[*Authorised English text of the Himachal Pradesh Beroja Tatha Beroja Utpad (Beopar Viniyman) Vidheyak, 1981 as required under Article 348 (3) of the Constitution of India*].

Bill No. 10 of 1981.

THE HIMACHAL PRADESH RESIN AND RESIN PRODUCTS (REGULATION OF TRADE) BILL, 1981

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A BILL

to provide in the interest of the general public, for the carrying on by the State of the trade of purchase and distribution of resin to the exclusion of others, and for the regulation of manufacture and preparation of various articles based on resin and for matters connected therewith.

BE it enacted by the Legislative Assembly, Himachal Pradesh in the Thirty-second Year of the Republic of India, as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Himachal Pradesh Resin and Resin Products (Regulation of Trade) Act, 1981.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall deemed to have come into force with effect from the 13th day of February, 1981.

CHAPTER II

REGULATION OF THE TRADE OF RESIN

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “authorised officer” means an officer of the State Government or any other person who may be authorised by it to purchase or sell resin on its behalf and to grant permits under section 5;

(b) “prescribed” means prescribed by the rules made under this Act;

(c) “resin” means the secretion extracted by tapping from Chir/Chil or Kail trees;

(d) “resin depot” means a place specified as such by the Chief Conservator of Forests, Himachal Pradesh, for the purchase, storage and sale of resin tapped in an area specified in relation to that depot;

(e) “resin products” means derivatives obtained by processing of resin, and includes resin, turpentine, hardened resin, and also includes paints and varnishes manufactured directly from resin;

- (f) "tapper of resin" means a person who taps resin;
- (g) "owner" means, a person in possession, management or control of Chir/Chil or Kail trees;
- (h) "unit" means a unit constituted under section 3;
- (i) words and expressions used but not defined in this Act and defined in the Indian Forest Act, 1927, as amended from time to time in its application to Himachal Pradesh, shall have the meanings assigned to them in that Act.

Constitution of units.

3. The State Government may, by notification in the Official Gazette, divide the State into such number of units, as it may deem fit, and until varied by such notification, each forest division (as for the time being delimited by general or special orders of the State Government) shall constitute a unit.

Restrictions on sale, and purchase of resin etc.

4. On and after the commencement of this Act,—

- (a) no person shall tap resin or manufacture any resin product or export any resin or resin products, unless he is registered under and in accordance with section 10;
- (b) no person shall sell resin to any person other than the State Government or an authorised officer;
- (c) no person other than the State Government or authorised officer shall purchase resin from any tapper/owner of resin;
- (d) no person other than the State Government or an authorised officer shall transport resin except in the following cases:—
 - (i) where he being a tapper of resin transports it to the resin depot specified for the area where the resin is tapped; or
 - (ii) where he transports it on behalf of the State Government or an authorised officer;
- (e) no person other than the State Government or an authorised officer shall transport resin products manufactured in a unit to any place outside that unit without a permit issued in that behalf by such authority, in such manner and subject to such terms and conditions as may be prescribed.

Permit for sale transport etc.

5. (1) Notwithstanding anything in section 4, the State Government or an authorised officer may on such terms and conditions and in such manner as may be prescribed—

- (a) permit any person, who had purchased any resin before the commencement of this Act to transport and sell such resin to any person other than the State Government or an authorised officer and permit any person other than the State Government or an authorised officer to purchase and transport the same; or
- (b) permit any person, who has purchased resin from the State Government or an authorised officer for manufacture of resin products to transport the same and to sell any resin which he has been unable to utilise in the manufacture of resin products; or
- (c) permit any person, who has purchased any resin outside Himachal Pradesh to bring the same inside the State either for manufacture of resin products within the State or for transporting them elsewhere outside Himachal Pradesh.

(2) A person to whom a permit is granted under sub-section (1) shall be liable to payment of such fee as may be prescribed.

6. (1) The State Government shall for each year constitute for each unit in which resin is tapped, an Advisory Committee which shall consist of not more than 9 members nominated by the State Government.

Constitution of an Advisory Committee.

(2) The Advisory Committee for each such unit shall advise the State Government in the matter of fixation from time to time of a fair and reasonable price at which resin offered for sale may be purchased by or on behalf of the State Government in that unit, and also on such other matters as may be referred to it by the State Government.

(3) The business of the Committee shall be conducted in such manner as may be prescribed.

7. The State Government shall, having regard to following factors, fix the price at which resin shall be purchased by or for it in each unit during the year, namely:—

Fixation of price by State Government.

- (a) the price of resin, if any, fixed under this Act during the preceding three years in respect of the unit;
- (b) the quality of the resin tapped in the unit;
- (c) the cost of transport;
- (d) the general rate of wages for labour prevalent in the unit;
- (e) the cost of extraction of resin;
- (f) the cost of packing of resin including the cost of container in which resin is delivered;
- (g) any other factor which the State Government considers relevant.

(2) The price so fixed shall be published in such manner as the State Government may direct, and shall not be altered during the year to which it relates.

(3) The price so fixed shall be for net weight of resin excluding the weight of container in which resin is packed.

(4) Where an Advisory Committee has been constituted under section 6, it shall, wherever practicable, be consulted by the State Government before the fixation of price under sub-section (1).

8. (1) The State Government or the authorised officer shall be bound to purchase at the price fixed under section 7 all resin offered for sale to or for it during the normal hours of business at a resin depot:

State Government to purchase all resin offered for sale.

Provided that it shall be open to an authorised officer to refuse purchase of such resin as in his opinion is not fit for the purpose of manufacture of resin products.

(2) Any person aggrieved by the authorised officer's refusal to purchase resin under the proviso to sub-section (1) may, within fifteen days from such refusal, and in the manner prescribed complain to the Divisional Forest Officer or such other officer as may be empowered by the State Government in that behalf (hereinafter referred to as the competent officer).

(3) On receipt of a complaint under sub-section (2), the competent officer shall hold a summary inquiry and pass such order within thirty days of the receipt of the complaint as he may deem fit, and in case he finds such refusal to be improper, he may direct the authorised officer to purchase the same.

(4) Where the competent officer finds the refusal of the resin proper but in his opinion, the resin may be purchased at a lower price, he may direct the authorised officer to purchase the same at such lower price as he deems fit.

(5) Notwithstanding anything in sub-section (1), where the State Government or an authorised officer has reason to believe that any resin offered for sale was tapped from trees standing on any land which was vested in or belonged to the State Government, Cantonment Board, Municipal Corporation, Municipal Committee, Notified Area Committee or Gram Panchayat, such resin may be appropriated without payment of price, and on payment only of such collection charges, if any, as the State Government or an authorised officer may determine.

(6) The provisions of sub-sections (2) to (4) shall *mutatis mutandis* apply in relation to any action taken under sub-section (5).

(7) Every order passed under this section shall be final.

Tapping of trees which are not being tapped.

9. (1) If the State Government or an authorised officer finds that any Chir/Chil or Kail trees of tapable size standing in a unit is not being tapped, the State Government or an authorised officer may by notice require the owner of such trees to commence tapping of the same or to cause its tapping commenced within such time as may be prescribed.

(2) If after the service of the notice under sub-section (1), the owner of the trees fails to comply with such notice, the State Government or an authorised officer may, in the manner prescribed, cause the trees to be tapped for extraction of resin.

(3) All resin extracted from a tree under sub-section (2), shall be sold in accordance with the provisions of this Act and the rules made thereunder and the price thereof shall, after deducting the expenses of tapping, be paid to the owner of such trees.

Registration of tappers of resin etc.

10. Every tapper of resin, every manufacturer of resin product and every exporter of resin or resin products shall be entitled to registration on payment of such fee, to such authority and in such manner as may be prescribed.

Disposal of resin.

11. Resin purchased by the State Government or an authorised officer shall be sold or otherwise disposed of in such manner as the State Government may by general or special order direct.

Delegation of powers.

12. The State Government may, except the power to make the rules under section 19, by general or special order, delegate any of its powers or functions under this Act or the rules made thereunder to any officer not below the rank of Assistant Conservator of Forests, or the Sub-Divisional Manager of the State Forest Corporation, who shall exercise or perform the same, subject to such conditions or restrictions, if any, as the State Government may specify in the order.

Power of entry, search, seizure etc.

13. (1) Any Police Officer not below the rank of Sub-Inspector or any Forest Officer may, with a view to securing compliance with the provisions

of this Act or the rules made thereunder or to satisfy himself that the said provisions have been complied with—

- (i) stop and search any person, vessel, vehicle or receptacle used or intended to be used for the transport of resin or resin product;
- (ii) enter and search any place;
- (iii) seize resin or resin product in respect of which he suspects that any provision of this Act or the rules made thereunder has been, is being or is about to be contravened along with the receptacle containing or carrying such resin.

(2) The provisions of section 100 of the Code of Criminal Procedure, 1973, relating to search and seizure shall, so far as may be, apply to searches and seizures under this section.

14. If any person contravenes any of the provisions of this Act or the rules made thereunder, he shall be deemed to have committed a forest offence and the resin or resin product, if any, in respect of which such offence is committed shall in relation to the commission of such offence be deemed to be forest produce, and the provisions of Chapter IX of the Indian Forest Act, 1927 as in force in this State shall accordingly apply with necessary modifications.

Penalty.

15. (1) If the person committing an offence under this Act is a company, the company as well as every person in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any managing agent, secretary and treasurer, director, manager or other officers of the company, such managing agent, secretary and treasurer, director, manager or other officer of the company shall also be deemed to be guilty of that offence and shall also be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section—

- (a) “company” means a body corporate and includes a firm or other association of individuals; and
- (b) “director” in relation to a firm, means a partner in the firm.

16. No court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by a Forest Officer not below the rank of a Forest Ranger or by such other officer as may be empowered by general or special order of the State Government in that behalf.

Cognizance of offences.

Provisions of this Act to have overriding effect.

17. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in any contract or other instrument.

Saving in respect of acts done in good faith.

18. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or the rules made thereunder.

(2) No suit or other legal proceeding shall lie against the State Government or an authorised officer for any damage caused or likely to be caused or any injury suffered or likely to be suffered by virtue of the provisions of this Act or the rules made thereunder or by anything which is in good faith done or intended to be done in pursuance of this or the rules made thereunder.

Power to make rules.

19. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the publication of the price list of the resin;
- (b) the manner of holding inquiries under this Act;
- (c) the authority by whom, the manner in which and the conditions subject to which permits may be issued under section 5 and the fees payable for such permits;
- (d) the disposal of the resin, the purchase of which was refused under section 8;
- (e) the manner of tapping the trees for resin under section 9;
- (f) the manner of registration under section 10, the period within which such registration shall be made, and the fees payable therefor;
- (g) specifications of resin for purposes of determination of quality;
- (h) any other matter which is to be or may be prescribed.

(3) Every rule made under this section shall, as soon as may be after it is made, be laid before the State Legislative Assembly while it is in session for a total period of not less than ten days, comprised in its one session or two or more successive sessions, and if before the expiry of the session in which it is so laid or the successive sessions, the Assembly makes any modification in the rule or decides that the rule shall not be made, the rule, shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

(4) Notwithstanding anything in sub-section (3), any rules made within one year from the commencement of this Act may be made retrospectively to a date not earlier than such commencement.

Transitory provision.

20. Where at any time before the commencement of this Act, any person had entered into any contract for the sale of resin expected to be tapped by him to any trader and obtained an advance from such trader towards the price of the resin expected to be delivered to the trader under such contract, then notwithstanding that by virtue of the provisions of sections 4 and 17, such contract

shall have become void on the commencement of this Act, the said person and trader may make a joint application before the Divisional Forest Officer or an officer authorised by him in that behalf giving particulars of such advance, and thereupon the said officer on being duly satisfied that the application has been voluntarily made by the said person may direct the authorised officer to pay on behalf of the said person, to such trader a sum equivalent to the said advance (less the amount already repaid by the said person to such trader) without any interest or compensation, out of the price due to the said person for resin sold under section 8, and the liability of the State Government or the authorised officer to the said person and of the said person to the trader shall to the extent of such payment stand discharged, and the said person shall not be liable to pay any interest or compensation in respect of such advance.

21. The Himachal Pradesh Resin and Resin Products (Regulation of Trade) Ordinance, 1981 is hereby repealed:

Repeal and savings.

Provided that anything done, any action taken under the said Ordinance shall be deemed to have been done or taken under this Act, as if this Act had commenced on the 13th February, 1981.

STATEMENT OF OBJECTS AND REASONS

At present approximately 5,00,000 resin blazes are owned by individuals in their private lands/forests. The said private lands and forests are interspersed with the Government forests. This interspersation facilitates the illicit extraction of resin and the removal of resin extracted from Government forests. Besides this, the Rosin and Turpentine Factories established in the public sector are finding it difficult to function smoothly for want of the raw material.

2. In order, therefore, to control pilferage, save forests from destruction and to maintain supply of raw materials to the industries already established in the State, it has become essential to take over the trade of purchase and distribution of resin to the exclusion of others by the State Government.

3. Since the resin tapping season was about to set in and the private owners of Chil trees were to negotiate for the sale of resin blazes at the earliest, it had become necessary to take immediate action to facilitate the said taking over of the trade of resin and resin products.

4. Since the matter was of urgent public importance, the Legislative Assembly was not in session and the circumstances existed which rendered it necessary for the Governor to take immediate action under clause (1) of Article 213 of the Constitution of India, the Himachal Pradesh Beroza and Beroza Utpad (Beopar Viniyaman) Adhyadesh, 1981 (H.P. Ordinance No. 1 of 1981) was promulgated on the 13th February, 1981. Now, this Ordinance is required to be replaced by a regular enactment.

This Bill seeks to replace the aforesaid Ordinance without any modification.

SIMLA:
The 1st April, 1981.

HARDYAL,
Minister-in-charge.

FINANCIAL MEMORANDUM

The provisions contained in the Bill shall be got implemented through the existing machinery of the Government. Clause 6 of the Bill provides for the constitution of Advisory Committee for each unit which shall consist of 9 members, to advise the State Government in the matter of fixation of fair and reasonable price at which the resin offered for sale may be purchased by or on behalf of the State Government. Under sub-clause (1) of clause 8, the State Government or the authorised officer shall be bound to purchase at the price fixed all resin offered for sale. Clause 20 of the Bill provides that where at any time before the commencement of the proposed enactment any person has entered into any contract for the sale of resin expected to be tapped by him to any trader and obtained an advance from such trader, the said person or trader may make application to the Divisional Forest Officer and thereupon the said Officer may direct the authorised officer to purchase the resin and make payment of the amount equivalent to said advance to be made on behalf of the said person to such trader out of the price due to the said person without any interest or compensation. The exact additional financial liability on these accounts cannot be quantified at this stage. It is, however, tentatively estimated that the State Government may have to incur Rs. 20,000 per annum recurring and Rs. 30,000 non-recurring expenditure in this connection.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 19 of the Bill empowers the State Government to make rules, in respect of the matters enumerated therein. These rules will be laid, as soon as may be after these are made, before the Legislative Assembly. The proposed delegation is essential and normal in character.

**RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE
CONSTITUTION OF INDIA**

[Forest Department File No. Fts-(2)-2/79]

The Governor of Himachal Pradesh, having been informed of the subjectmatter of the Himachal Pradesh Resin and Resin Products (Regulation of Trade) Bill, 1981, recommends under Article 207 of the Constitution of India, the introduction and consideration of the Bill in the Legislative Assembly.

